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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/833,471	04/12/2001	Paul J. Rankin	PHGB 000048	2814
24737 7590 06/27/2007 PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510				
			EXAMINER PATEL, ASHOKKUMAR B	
			ART UNIT 2154	PAPER NUMBER
			MAIL DATE 06/27/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/833,471	Applicant(s) RANKIN, PAUL J.	
	Examiner Ashok B. Patel	Art Unit 2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-17 are subject to examination.
2. This action is responsive to appeal brief filed on 02/26/2007. In view of the appeal brief filed on 02/26/2007, PROSECUTION IS HEREBY REOPENED. New grounds of rejections are set forth below. To avoid abandonment of the application, appellant must exercise one of the following two options: (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or, (2) request reinstatement of the appeal. If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

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Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1, 2, 3, 4, 6, 12 and 14 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 3, 4, 7, 9 and 12 of U.S. Patent No. 6, 594, 705. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following:

U.S. Patent No. 7, 146, 397	Instant Application
<p>Claim 1:</p> <p>A networked communications apparatus comprising at least one server and a plurality of user stations, wherein each of the user stations comprise a terminal that can receive information from the at least one server by means of a connection via a first network,</p> <p>the apparatus further comprising:</p> <p>storage means holding a profile database, which profile database contains data representing a characteristic behavior of an associated user terminal network address or addresses, the data being</p>	<p>Claim 1:</p> <p>A communication system comprising:</p> <p>at least one Server and a plurality of user stations, the user stations include terminals arranged to receive information from the at least one server via a first network;</p> <p>storage means, holding a profile database, the profile database containing data representing a characteristic behavior of an associated user identifiable by the user's terminal network address or</p>

acquired automatically in response to an activity of an associated user and being stored together with the associated user terminal network address or addresses in the profile database;

wherein the user station further comprises a portable communications device coupled with said terminal and connectable to said at least one server via a second network independent of the first network, wherein the coupling between the portable device with said terminal is by wireless transmission therefrom, and

the portable communications device includes means for receiving wireless transmissions from the terminal are further configured to receive additional data transmitted wirelessly from other sources than said second network and said terminal.

addresses, automatically acquires such data in response to an activity of the associated user and storing the same together with the associated user terminal network address or addresses in the profile database;

wherein the user station further includes a portable communications device coupled with said terminal and communicatively coupled to the at least one server via a second network,

Claim 11: The system Apparatus as claimed in Claim 1, wherein the coupling with said user terminal is by wireless transmission therefrom, and the portable communications device means for receiving wireless transmissions from the terminal are further configured to receive

	<p>additional data transmitted wirelessly from other sources.</p> <p>US Patent 7, 146, 397 is lacking wherein the user terminal is configured to perform the automatic acquisition of data for the profile database, said data being transferred, for storage in the profile database, to the at least one server via said portable communications device following establishment of a connection via said second network, and storage means is coupled to the at least one server and wherein the at least one server is acquiring the data.</p> <p>It would have been obvious to one having ordinary skill in the art at the time of invention to consider the automatic acquisition of data for the profile database anywhere and stored anywhere because the portable communications device is capable of communicating over more than one network as claim 11 insists.</p>
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	Note: This applicable to claims 12 and 14 also.
Claim 2	Claim 2:
Claim 3	Claim 3
Claims 4 and 7	Claims 4 and 6 respectively.
Claim 9	Same as claim 1 above.
Claim 12	Same as claim 1 above.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ashok B. Patel whose telephone number is (571) 272-3972. The examiner can normally be reached on 6:30 am-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan A. Flynn can be reached on (571) 272-1915. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in black ink, appearing to read "Ashok B. Patel". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Ashok B. Patel
Examiner
AU 2154